



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 3, 1998

Mr. Hector Ramirez  
Office of the County Attorney  
1110 Victoria, Suite 403  
Laredo, Texas 78040

OR98-2926

Dear Mr. Ramirez:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 119843.

Webb County (the "county") received a request for completed applications of individuals who received air conditioning and water cooling units from the Comprehensive Energy Assistance Program ("CEAP"), which is administered by the county's Community Action Agency. It is our understanding that the funding for the program is a federal grant administered by the state. You submitted the application forms to this office for review, and assert that the forms contain private information protected from disclosure under section 552.101 of the Government Code.

We note initially that we have issued Open Records Letter No. 98-2925 (1998) concerning the identity of individuals who received air-conditioners, water cooling units, and financial assistance with electrical bills through CEAP. In that letter ruling, we advised you that if you were aware of provisions of federal or other law restricting the release of the identity of these individuals, you were to release the information in conformity with those provisions. The identity of individuals receiving such assistance is not otherwise protected from disclosure. We will address information on the application forms other than the *identity of the individuals receiving assistance*.

The application forms contain social security numbers, photocopies of social security identification forms, and copies of letters from the social security administration detailing social security benefits. If these social security account numbers and related records were

required to be disclosed by law in order to receive CEAP assistance, they are confidential under federal law and may not be disclosed. Open Records Decision No. 622 (1994) (section 405(c)(2)(C)(viii)(I) of title 42 of U.S.C. makes social security account number and related records confidential if obtained or maintained by governmental body pursuant to law enacted on or after October 1, 1990). If the social security information is thereby made confidential, it must be withheld from disclosure.

The submitted information also contains photocopies of drivers licenses. These photocopies are excepted from disclosure under section 552.130 of the Government Code and may not be released.

You have asserted the applicability of section 552.101 to the other information on the forms. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by constitutional or common-law privacy. The constitutional right to privacy protects two interests. Open Records Decision No. 600 at 4 (1992) (citing *Ramie v. City of Hedwig Village*, 765 F.2d 490 (5th Cir. 1985), *cert. denied*, 474 U.S. 1062 (1986)). The first is the interest in independence in making certain important decisions related to the "zones of privacy" recognized by the United States Supreme Court. Open Records Decision No. 600 at 4 (1992). The zones of privacy recognized by the United States Supreme Court are matters pertaining to marriage, procreation, contraception, family relationships, and child rearing and education. *See id.*

The second interest is the interest in avoiding disclosure of personal matters. The test for whether information may be publicly disclosed without violating constitutional privacy rights involves a balancing of the individual's privacy interests against the public's need to know information of public concern. *See* Open Records Decision No. 455 at 5-7 (1987) (citing *Fadjo v. Coon*, 633 F.2d 1172, 1176 (5th Cir. 1981)). The scope of information considered private under the constitutional doctrine is far narrower than that under the common law; the material must concern the "most intimate aspects of human affairs." *See* Open Records Decision No. 455 at 5 (1987) (citing *Ramie v. City of Hedwig Village*, 765 F.2d 490, 492 (5th Cir. 1985), *cert. denied*, 474 U.S. 1062 (1986)).

In *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977), the Texas Supreme Court said that information must be withheld from public disclosure under a common-law right of privacy when the information is (1) highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities, and (2) there is no legitimate public interest in its disclosure. Details of transactions funded in whole or in part by the state are generally of legitimate public interest, because these are financial transactions that involve public funds. *See* Open Records Decision No. 545 (1990). However, there is no legitimate public interest in private financial information. Open Records Decision No. 600 (1992). In Open Records Decision No. 373 at 3 (1983), we stated:

In our opinion, all financial information relating to an individual -- including sources of income, salary, mortgage payments, assets, medical and utility bills, social security and veterans benefits, retirement and state assistance benefits, and credit history -- ordinarily satisfies the first requirement of common-law privacy, in that it constitutes highly intimate or embarrassing facts about the individual, such that its public disclosure would be highly objectionable to a person of ordinary sensibilities.

The application form seeks identification of all members living in the same house with the individual to whom assistance was provided. In addition to the identification of those who reside in the household, the form seeks information as to the ages of those individuals residing together, their ethnicity, and information concerning disabilities. We believe that information concerning whether an individual is disabled is private information and may not be released.

The submitted forms also include information about income amount, types of income, housing and other costs, whether welfare benefits are received, and whether the household income is below or above the poverty level. We believe that this information is private and may not be released.

Other than the information we concluded is confidential, the remaining portions of the applications must be disclosed.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Ruth H. Soucy", with a stylized flourish at the end.

Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/ch

Ref: ID# 119843

Enclosures: Submitted documents